As We Do unto Others

by Charles H. Seaver

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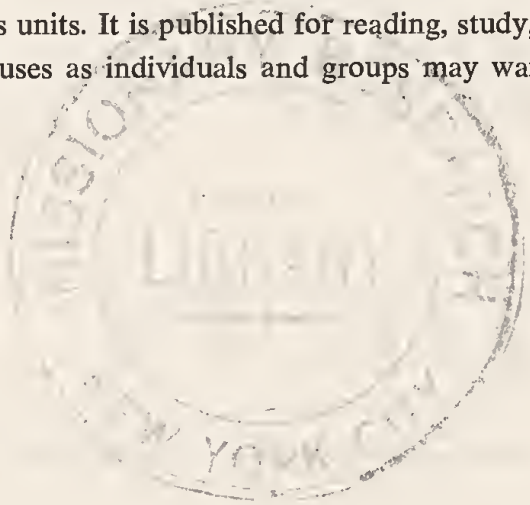

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Introduction

This booklet deals with our immigration laws, our official treatment of alien residents and visitors, and the status of our naturalized citizens.

It is a timely, indeed a critical, subject. In this area of our national policy not only our people, but also free and freedom-seeking people everywhere, are vitally concerned. It is a domestic problem, but with world-wide implications. It affects far-reaching political and economic issues—such as collective security vs. dangerous isolation—even the issue of peace or war.

Moral and religious principles also are involved. These, like the proverbial chickens, are bound to come home to roost if we try to keep them out of the places where political and economic decisions are made. Trends that lead to fateful decisions, on our part or our neighbors', affecting our national security and theirs, may arise out of our acceptance or rejection of such basic principles of human relations. Our current policy in the field treated in this booklet needs to be examined from this point of view.

This policy is embodied in an "omnibus" law or code, the Immigration and Nationality Act of 1952 (Public Law 414 of the Eighty-second Congress), popularly known as the McCarran-Walter Act, which became effective December 24, 1952.

A Controversial Law

Now this is a comparatively new law, which would be supposed to recognize both time-honored American principles and the present world situation. Was it not the product of several years of study by special committees of Congress and their staffs and advisers, with many resulting amendments of the bills as first drawn? It was offered as (1) bringing together into one code, with appropriate adjustments, the hodge-podge of laws and amendments that had been enacted during the past thirty years or more; (2) removing or changing some provisions of older laws that had been found unsatisfactory; and (3) tightening the restrictions on admission of aliens, and on conduct of alien residents and naturalized citizens, in the interest of national security. Weren't these worthy purposes? And, when finally presented in Congress, the bill was accepted by substantial majorities, and repassed over the President's veto. Is it actually worth while for citizens generally, and for our churches, to give further attention now to an Act of Congress embodying these purposes enacted through this legislative process?

Yet, as *Newsweek* noted a few months ago, this is "the most controversial law of the land." It is suspected that most members of Congress, with other interests occupying their attention, never read the bill as reported by the special committees—a volume of several hundred pages with its hundreds of provisions and complicated verbiage. A reader of the record of the joint-committee hearings, including some questioning and both oral and written statements submitted (sometimes with only one, often with only two or three members present), would find much weighty evidence for substantial modification of the bills as drawn up by the staffs of the two committees. But comparison of earlier drafts with the final enactment shows no fundamental changes. The process seems, however, to have introduced many inconsistencies and countless complications. So the Act can hardly be regarded as a clear and coherent product of a thorough-going and constructive legislative process, or as reflecting the deliberate judgment of our chosen representatives in Congress. Deliberation on so complicated a measure was per-

haps too much to expect in the summer of 1952 with a general election impending. More consideration by Congress and the American people is due now.

No intelligent and fair-minded critic would call the Act wholly bad or wholly good. Ardent defenders of it, however, generally oppose any revision or even amendments, and seem to rest their case mainly on these arguments: (1) The Act was the result of a long process (as mentioned above) and was passed by Congress even over the President's veto. (2) It protects our national security by elaborate tests of immigrants, resident aliens, and naturalized citizens. (3) It keeps immigration down to a minimum, and favors those whose national origins are assumed to make them most easily assimilable as "good citizens." (4) And the conclusive argument, in Senator McCarran's words, is that the Act "is complimented by the nature of those who seek to have it repealed or destroyed by amendment." The last argument is echoed from many sources. The author of an article in *The National Republic*, an extreme "right-wing" organ, suggests that "the list of characters who are now attacking it [the Act] should immediately determine our position." Societies whose members rejoice in descent from early immigrants join other "patriotic" organizations in vigorous defense of the Act as a safeguard against "further dilution of our original stock and especially against Communist infiltration"—while also expressing suspicion of the motives or character of those who propose any revision.

Many persons, however, have found reason for concern with the Act. They include such "characters" as Presidents Truman and Eisenhower, the General Board of the National Council of Churches, the National Catholic Welfare Conference, the Synagogue Council of America, the heads of the American Federation of Labor and the C. I. O., and the editors of our greatest newspapers. (See quotations in the Appendix of this booklet.)

From such various points of view, critics of the Act are concerned with some or all of these aspects: (1) It retains the thirty-year-old discriminatory selection of immigrants according to national origins, with no substantial changes and no flexibility, with quotas already mortgaged into the distant future. (2) It affects substantially the rights and the security of millions of people who dwell among us, both aliens and citizens, by provisions that many regard as violating principles to which we as a people have long been committed. (3) It affects our relations with the rest of the world and our efforts to win goodwill among free and freedom-seeking peoples. (4) It puts barriers in the way of what has been regarded through long years as normal international intercourse. (5) In these matters moral issues are involved that people of all religious faiths cannot consistently ignore. Whatever variety of opinions may result from information and discussion on these points, problems are presented that affect the present and future interests of our nation and involve the ideals of freedom and justice which are our cherished heritage.

Meanwhile there is increasing evidence, from both friendly and unfriendly sources in foreign countries and from American observers there, that the Act has increased distrust of the United States and is interpreted as reflecting a substantial if not dominant antiforeign attitude on the part of the American people.

Obviously both supporters and opponents of the law as it stands must recognize that it divides our people and to some extent at least tends to aggravate the misunderstandings between us and other peoples whose friendship we seek. Do whatever virtues the law has justify its divisive effects?

No complete analysis of this 120-page Act (as now printed), with its 164 sections and hundreds of subsections, can be given here. We can merely discuss

briefly some of the most controversial provisions, with due regard to opinions on both sides and with mention of proposed revisions. No judgment as to various alternatives is offered; but it is hoped that some useful information is given readers who have not studied or have not time to study the Act and the various detailed analyses of it. If any inappropriate bias appears, readers may apply their own antidotes.

The National Origins-Quota System

The selection of immigrants according to national origins has prevailed for more than thirty years and is a basic and controversial feature of the present law. Besides a brief sketch of its background and operation, the main arguments for and against the system will be noted.

Background

From the founding of the nation down to about 1920, we kept an open-door policy as to immigration. As a nation of immigrants we encouraged and welcomed more immigrants. They were needed for the growth and development of the nation, and it was a composite people that brought about the marvelous progress of the past 150 years.

In the latter part of the nineteenth century some restrictions were imposed, but only against Oriental peoples, contract labor, and pauper, criminal, and diseased persons. Then in the early years of the present century, when immigration had reached a million a year, some limitations seemed desirable, and methods of selection were considered.

It was not thought necessary or expedient to limit immigration from Canada or the Latin American countries; immigration from "overseas," from the Old World, was the object of concern. For immigrants from these countries, an Act of Congress in 1924 (effective in 1930) set an annual limit of 154,000, which was one-sixth of 1 per cent of the white population according to the census of 1920. Then, in order not to change the "balance" of our population, as to national origins, an estimate was made (based largely on people's names) of the national ancestries of the white population in 1920, and quotas for immigrants were set on this basis.

For example, it was estimated that nearly 80 per cent of the white people in 1920 were of northern and western European birth or ancestry, about 15 per cent of other European stock. So annual quotas amounting to 150,000 were assigned accordingly: in thousands, Great Britain and Northern Ireland, 65.7; other Ireland, 17.9; Germany, 28.0; Poland, 6.5; Italy, 5.8; Greece, 0.3; etc. Quotas of 100 each were assigned to about 40 countries and areas in Asia, Africa, and the Pacific Ocean. Minor changes have been made, as new nations passed out and other nations came into being. The total of the quotas was kept under 155,000. The same limit and virtually the same quotas, based on the same 1920 estimates, were incorporated in the McCarran-Walter Act of 1952.

Operation

In its operation, of course, the system has shown that its arbitrary quotas did not fit the pattern of immigration. In the twenty years 1930-1949, the quotas of about 126 thousand a year for northern and western Europe were largely unused—the average use being about 30 thousand, mostly from Germany. The average annual immigration from all countries under the quota system for these

years, instead of the limit of 154,000, was only about 45,000, since unused quotas could not be distributed among qualified people who wanted to use them.

When World War II and its aftermath left millions of people uprooted and homeless in Europe—displaced, expelled, and escaped—migration was for many the only recourse. International co-operation was required. France received a number variously estimated between 500,000 and 1,000,000. Great Britain and other countries of northern and western Europe received large numbers—in some cases to the point of overcrowding. The United States could not do its part for some years, since the quotas were smallest for the native countries of most of the refugees, and other legal provisions tended to favor entry of people who did not need or wish to move and to keep out those whose need of migration was most urgent.

Eventually, emergency legislation was passed whereby substantial numbers of certain classes of refugees were admitted in 1950-1-2, altogether about 400,000. But, in order to preserve the national-origins pattern, these were charged to 50 per cent of the quotas of their nationalities for as many years ahead as would absorb the number. When the emergency acts expired, some of the quotas were mortgaged for from 100 to 200 years ahead!

The Immigration and Nationality Act of 1952 did not lift these mortgages. Since it also made only minor changes in the quotas—none in the theoretical total—and continued the larger quotas to countries from which people do not wish or need to emigrate, it is estimated that not more than 50,000 of the quotas will be used annually. The Emergency Refugee Act of 1953, supposed to admit some 200,000 more refugees outside the quotas, has encountered some serious obstacles (see Appendix, III).

Support of the National-Origins System

The purpose of the national-origins system of selection of immigrants, as adopted in 1924 and as readopted in 1952, was admitted to be discriminatory. Other plans of selection proposed, Senator McCarran insists, "would in the course of a generation or so change the ethnic or cultural composition of the nation," adding that "we have a good mixture here now." And according to Senator George, who was in the Senate when the original 1924 law was enacted, the purpose was "to preserve something of the homogeneity of the American people, something of the character of the men who loved self-government, who understood it and had some concept of it." The editors of the *Saturday Evening Post* echo this sentiment, and argue also that the setting of definite limits for each national-origins group prevents continuous pressures from partisans of one ethnic group or another and intergroup conflicts that retard assimilation.

In the hearings the argument was often heard that, as a Representative of Idaho voiced it, "we have a very large proportion of people that we have not yet digested and who have not yet learned the first principles of American citizenship." From some observation in eastern cities, he continued, where "they are penned up among the people of their own kind" and "do not learn to talk English readily," he got the "impression that it takes almost three generations to make a good American citizen." (Perhaps he would except members of Congress of foreign birth or parentage.) It was implied by many others also that "first principles of American citizenship" were learned more quickly by the earlier immigrants, who were considered of "superior" stock.

Others called attention to the living conditions of "foreign colonies" in our

cities, where the growth of population has outrun provision for housing, schools, etc. Immigration, they said, is making a bad situation worse. It was suggested that slum clearance had better precede admission of more immigrants who would join these overcrowded "colonies."

The argument of unemployment was also used—that in a "recession" immigrants would be left unemployed or would compete with citizens for unemployment. (The major labor unions, however, have registered their opposition to the present Act.)

As to the impact of discrimination upon our foreign relations, supporters of the system insisted, as the representative of one national organization said, that "the American people, being the sole judges as to who shall be admitted, need have no concern with what other nations may think about it" and that "humanitarian considerations have no place in immigration legislation." They attribute agitation for changes mainly to groups of alien origin (e.g., not "Anglo-Saxon") who want more people of their national origin or religious faith admitted to increase their political or social influence, without regard to the national interest.

The fear also was often expressed that relaxing of quota limitations, or any change in the present law, would result in admitting Communists and "tearing down all barriers."

It should be added that many opponents of other provisions of the McCarran-Walter Act would retain the national-origins quota system if it were made more flexible by allowing the distribution of unused quotas.

The Other Side

The national-origin quota system, as set up in 1924 and included in the 1952 Act, has been vigorously attacked on many grounds.

It is based on the assumption that Americans of British or Irish or German birth or ancestry are better citizens than Americans of Italian, Greek, or Polish birth or ancestry. Opinions may differ at different times and from different points of view; a hundred years ago many Americans took a dim view of immigration of Catholic Irish and Germans. But to embody current prejudices of this sort into law is insulting to the people of any nationalities concerned, both here and in the countries of their origin. There is no evidence that they do not become good citizens in about the same proportion as did the earlier "Anglo-Saxon" immigrants. Why, then, shut out those who want to come, within the limits we have set for annual immigration from Europe, if they can pass the same tests as are applied to other Europeans?

Another point raised is that our present laws wrongly regard immigrants as a liability rather than an asset. They were not so regarded by the makers of national policy through the nineteenth century, and the States and regions of our country that received the most immigrants have become the most prosperous. It is argued that continued immigration is for us an opportunity rather than a menace.

Another objection to the present system is the inflexibility of quotas. We have set the number annually admissible from Europe under the quota system at 150,000, but restricted the number admissible from southern and eastern Europe to 25,000. If only one-sixth of the quotas for Great Britain and Ireland were used (average 1930-49), and there are long waiting lists in other countries, why should not these unused quotas each year be alloted to countries that would use them—if the intention was really to admit 150,000 Europeans a year?

Italy, Greece, and Turkey are wanted as allies in the North Atlantic Treaty Organization. We ask them to join us in protecting the peace of the world. But we tell them that their people are less worthy than others to come to this country. Under the provisions of the Act, from overcrowded Italy, 5,677 may come; from Greece, overcrowded with war victims, 310; from Turkey, 226. We have carried over, it is charged, the isolationist limitations of 1924 to the changed world of 1952.

An emergency act passed in 1953 is intended to admit 204,000 more refugees from specific countries in the next three years (without further mortgaging of quotas). But these emergency measures for refugees do not alter the national policy expressed in the national-origins system. And it is doubted that the restrictions included in the McCarran-Walter Act and this emergency act will permit the entry of any such number of refugees.

Protestant, Roman Catholic, Eastern Orthodox, and Jewish religious bodies have passed resolutions either opposing outright the national-origins quota system or favoring amendment of it for greater flexibility. They have shown concern not only on the ground of unfairness but also on the ground of its impact on our critical international relations.

Nonquota Immigration

One should not reach a judgment on the quota system or on our immigration policies without taking into account nonquota immigration, as provided for in earlier legislation and retained in the Act of 1952.

Aliens admissible as immigrants *outside* the quota system (but subject to some restrictions) include persons born in the independent nations of the Western Hemisphere (i.e., Canada and the Latin American republics). The "good neighbor" policy influenced this exemption. There is no restriction as to numbers.

Certain other groups also may be admitted outside the quotas. They include "an immigrant who is the child or the spouse of a citizen of the United States," "an immigrant previously and lawfully admitted for permanent residence who is returning from a temporary visit abroad," a minister of a "religious denomination having a bona fide organization in the United States" and needing his services; and "in exceptional circumstances" an employee or former employee of the United States abroad, with 15 years or more experience. In each of the two latter cases "spouse and children" are included if accompanying or following.

During the period 1930-1949 about 450 thousand nonquota immigrants were officially admitted from Canada and Latin America and 366 thousand nonquota immigrants from quota countries—as compared with quota immigration of 838 thousand for the same period. Thus only about one-half of the officially recorded immigration was under the quota system.

But the quite substantial *unofficial* nonquota immigration should not be overlooked. The 4,000-mile border between Canada and the United States is not fortified against infiltration by informal immigrants; nor is the 1,600-mile border between the United States and Mexico—even though the Rio Grande is a part of it. Estimates vary as to the numbers of various national origins that enter informally from Canada; no doubt many thousand a year. The annual average of informal entry from Mexico in recent years has been estimated at from 500,000 to over 1,000,000. They are welcomed by farmers for seasonal low-wage labor; but the proportion that remains is said to be increasing. The Confederation of Mexican Chambers of Commerce has estimated the population of the United

States of Mexican origin as 20 million, incidentally claiming Los Angeles as the second largest Mexican city in the world. It is possible also that we may get some illegal immigrants from nearby Cuba. We cannot count Puerto Ricans as immigrants, since they are entitled to free entry as citizens of a United States commonwealth; but hundreds of thousands have moved in and settled in New York and other cities here. New York is by far the largest Puerto Rican city in the world.

In these circumstances it is difficult to understand the sound and fury about even the recently passed (1953) emergency legislation to admit legally perhaps a total of 200 thousand more refugees from Europe, carefully selected, in the next three years. How many will actually be admitted is still doubtful. And the "balance" of our population has been far more disturbed by the continuing non-quota immigration, legal and illegal, than it could be by removal of the discriminatory national-origins quotas and substitution of other methods of selection.

Proposals for Amendment

Numerous proposals have been made, in Congress and outside, for removing rigidities of the national-origins system and what are regarded as unnecessary, unwise, and unjust discriminations. Some of these proposals may be cited.

(a) The President's Commission

A President's Commission on Immigration and Naturalization was appointed shortly after passage of the McCarran-Walter Act "to study and evaluate the immigration and naturalization policies of the United States" and to make recommendations "for such legislative, administrative, or other action, as in its opinion may be desirable in the interest of the economy, security, and responsibilities of this country." The appointment of such a commission had been urged by the National Council of Churches, The National Lutheran Council, the General Convention of the Protestant Episcopal Church, the National Catholic Welfare Conference, the American Council of Voluntary Agencies for Foreign Service, Jewish agencies, and other organizations. The seven persons appointed were a former Solicitor General of the United States (as chairman), a former U. S. Commissioner of Immigration and Dean of the University of Pennsylvania Law School, a former General Counsel of the Atomic Energy Commission, the Chairman of the Board of Immigration Appeals in the Department of Justice, and three members eminent in the Lutheran, Roman Catholic, and Friends groups.

This Commission, of course, had the benefit of the extensive testimony given at the joint hearings of the Congressional subcommittees, the competing measures offered by other members of Congress, and the extensive discussion in the press and in forums that had preceded and followed the enactment of the McCarran-Walter Act. They also held hearings in eleven cities across the country. The record of oral testimony given in these hearings by some 400 persons and the written statements submitted by 234 persons make up a volume of about 2,100 pages, published by the Judiciary Committee of the House of Representatives. The views of private individuals, of agents of federal, state, and municipal governments, and of representatives of many religious, political, and social organizations were obtained and included. The report of the Commission was made January 1, 1953, and was published as a book of about 340 pages under the title *Whom We Shall Welcome.*

The recommendations of the Commission as to the national-origins quota system were that it should be abolished and that a "unified quota" system be substituted. This "contemplates a maximum annual number of quota immi-

grants, to be determined by the Congress, and a flexible method of allocating visas within the annual maximum. Visas should be allocated on the basis of statutory categories best serving the interests of the United States, and without regard to national origin, race, color, or creed. This allocation of percentages to these categories should be made periodically by an administrative agency, established for that and other purposes, and would be subject to review by the President and the Congress."

The "categories" substituted for national-origin quotas would be (1) refugees (such as have been included in special legislation); (2) "immigrants whose admission would result in uniting families"; (3) persons of skills and occupations to fill needs certified by the . . . appropriate officials to be necessary in or desirable for the national welfare"; (4) "persons from countries of the free world where immigration to the United States can meet special needs and can provide substantial alleviation of hardships which threaten economic, political, and social stability in those countries"; (5) general immigration of all other qualified persons, without regard to national origin, race, color, or creed." No priorities among these categories are suggested; but the total number admissible annually would be a maximum fixed by Congress—just as a maximum of 155,000 (theoretically) was set for the national-origins quotas. The Commission favored a maximum of about 250,000 annually, which would be one-sixth of 1 per cent of the whole population of the United States according to the most recent census (rather than of the white population in 1920). There has been fairly general agreement among experts in government agencies, other students of population trends, leaders of labor, and the major religious bodies that the annual admission of at least this number of immigrants is desirable and will add to the resources of the nation.

(b) A New Omnibus Bill

A new omnibus immigration and naturalization bill (S.2585, H.R. 6843), introduced in the closing days of the first session of the present (83rd) Congress by a group of eight Senators and twenty-four Representatives, would repeal the present Act. It incorporates, however, the substance or the letter of its less controversial provisions, with clarification and simplification of many of the "legal jungles." It offers a substitute for the national-origins quota system, not unlike the recommendation of the President's Commission, but with detailed specifications. The substitute is called a "unified quota system."

This bill sets the total annual quota immigration at one-sixth of 1 per cent of the population of the United States at the last census: 251,000 annually. But it includes the Western Hemisphere within the quota system; so the total is probably not much greater than the theoretical maximum set in the present quota system plus the present legal Western Hemisphere immigration.

The basis of selection, within this limit of numbers, has no reference to race, color, religion, or national origin. The following preferences are stated, with a range flexible according to administrative judgment each year: to unite families of citizens and resident aliens, 25-35 per cent; for special skills, technical knowledge, education, and potential contribution to national security, 5-10 per cent; for refugees from persecution or oppression, 15-25 per cent; to alleviate acute political and economical problems, including displacement, 20-25 per cent; for others, "first come, first served," but not more than 10 per cent; to any nationality, not more than 20 per cent. The "security" provisions of the Act of 1952 are retained, with no changes affecting their efficiency.

The authors of this bill say it is the product of eight months or more of

drafting by experts in this field; with study of the arguments and proposals included in the hearings on the previous legislation and those held by the President's Commission, besides a vast amount of other discussion before and since the passage of the McCarran-Walter Act. Its substitute for the national-origins quota system deserves serious thought and full discussion by people representing various points of view. It provides one carefully considered answer to those who may have some misgivings about the national-origins quota system but ask, "What other system of selection is practicable?" And many of the changes suggested by critics of the present act appear here in legal form.

More recently (S. 3292, H.R. 8802, April 14, 1954) another bill has been introduced by Republican Senators from New York, New Jersey, and Massachusetts, jointly with a number of Republican Representatives, providing for distribution of unused quotas, changing the base from the 1920 to the 1950 census, and offering many other amendments to the McCarran-Walter Act. (See Appendix II.) This proposal also deserves similar consideration.

(c) The Anti-Stranger Attitude

It is probable that the national-origins plan of selection reflected prevailing public opinion at the time of its enactment in 1924. Immigration had been running high since World War I. Much anti-foreign sentiment had been stirred up in the isolationist mood that prevailed in those years, and a wave of "Red" hunting had followed the war as it followed the later war. (Then the quarry was not particularly Communists but the less revolutionary Socialists and the foreign-born labor agitators.) The Ku Klux Klan was dominant in some Midwestern and Southern States; it had many members in Congress. We have taken no pride in those periods of disregard of fundamental civil rights; but a new occasion, we have seen, affords opportunity to bring out surviving anti-alien prejudices.

Anti-alien sentiment probably dates back to the dawn of history. Perhaps if only those who are without a trace of it were allowed to cast stones at the advocates of discrimination, few stones would be thrown. Yet the sense of superiority of one tribe or one race over another, of natives of a community over newcomers, is largely artificial. Individuals differ in capacity for adaptation and achievement, and environment and opportunity are factors in differentiating, but if we go back far enough we are all descendants of barbarians. Civilized people try to suppress or minimize their bias; scientists find no sound basis for it; Christian doctrine denounces it. But people of the same nationality, or the same race, or the same culture, or the same religion tend to flock together, and to look askance at strangers.

The settlement of our country, however, was a composite process. The four million people who inhabited the United States when it became a nation were predominantly of British descent. Most of the white people or their ancestors had come over as refugees or displaced persons or indentured servants. But about one-fourth of the people were Negroes (the native Indians apparently not being counted). Through the nineteenth century people poured in from many countries —through the open door of which we boasted. No doubt in every community those who got there first did not receive with enthusiasm people of different national origins who moved in among them. But now "we" who have varying attitudes toward the stranger—who are we? Not more than one-third of us are of the "Anglo-Saxon" ancestry some of us like to emphasize. So it is a very composite group now that looks at the national-origins system. Whose ancestors "built America" would be difficult to determine. Many national origins were represented

in the building during the past hundred years. Are Irish, Germans, Poles, Italians, Slovaks, and Jews of various origins now "strangers"?

The "Security" Barriers

The first step toward immigration to the United States is to apply for a visa at a consular office or consular section of an embassy or other "diplomatic mission." In 1952 there were 263 such posts in foreign countries where visas are issued, of which 48 have one or more officers assigned to this work for full time. A visa is practically a permit to apply for admission at some port of entry (land "port" or seaport). Each applicant for a visa must prepare a long application, with whatever documentary evidence he can show to verify his statements (refugees and escapees are likely to have few documents). Then he is examined under oath concerning his background, opinions, and intentions. At the same time other sources of information are used if available and practicable. An unfavorable report from any source is likely to end the proceedings.

There are 40-50 items and about 5,000 words in the section (212) of the present Immigration and Nationality Act citing causes for refusal of visas to applicants or refusal of admission as immigrants. The most controversial items are those intended to screen out present or potential "subversives." These run to about 1,500 words. Most of the causes stated are reasonably clear and appropriate, but a few are questionable.

One example cited by opponents of the Act is that a person who has ever been a member of a party or group advocating Communist doctrines be denied a visa unless this membership was "involuntary" or he has been for at least five years "actively opposed to its doctrine, program, principles, and ideology." The very reason many persons have fled from their native countries to seek new homes elsewhere is that outward conformity to the existing regime was essential to safety and "active opposition" would have been quickly suppressed. The ban against former followers of other totalitarian doctrines, however, such as Nazism, Italian Fascism, and Spanish Falangism, though included in an earlier law and in an earlier draft of this Act, was for some reason removed from the final draft.

The consular officer also is expected to exercise his personal judgment whether or not the admission of each particular applicant would be "in the public interest." If his opinion is negative, that is usually final, since few applicants have means or facilities for appeal. If the consular officer believes the applicant "would, after entry, engage in any activity the purpose of which is opposition to the government of the United States," the applicant is ineligible. This provision is capable of varying interpretation, according to the prejudices or imagination of the consular officer—or according to the attitude of his superiors in the consulate or in Washington toward immigration. The consular officer is required also to refuse visas to any aliens who in his opinion "are likely at any time to become public charges"—which involves a rare degree of foresight. What applicant could *prove* that he would never become a public charge?

Another controversial provision is that persons are ineligible to receive visas "who have been convicted of two or more offenses (other than political offenses)," regardless of "whether the conviction was in a single trial, or the offenses arose from a single scheme of misconduct, or the offenses involved moral turpitude, for which the aggregate sentences to confinement actually imposed were five years or more." Another clause excludes "aliens who have been convicted of a crime involving moral turpitude (other than a purely political offense) or aliens who admit having committed such a crime." It is well known that convictions of

political opponents or suspected nonconformists or of prisoners in concentration camps have often been obtained in totalitarian countries on trumped-up charges of nonpolitical offenses (including "moral turpitude," however that term may be interpreted). Critics of these provisions, therefore, suggest requiring more than the judgment of a minor official in such cases; they object to substituting totalitarian for American standards of justice.

On the same grounds, immigrants with visas may be excluded on arrival at ports of entry. Visas are issued by consular officers of the Department of State; immigrants are screened on arrival by agents of Immigration and Naturalization Service, which is a division of the Department of Justice. Their decisions are not bound by those of consular officers abroad. An applicant having a valid visa may thus be refused entry. The Attorney General is the final arbiter of cases arising under the Act (but this means, in practice, some subordinate official), except as Congress may pass special laws admitting certain immigrants. (Over 2,000 such bills were introduced in the 82nd Congress, and over 700 passed, affecting about 1,400 persons).

The Hoover Commission recommended that all authority over immigration, including the issuance of visas, be centered in one agency, so that when an applicant receives a visa he will be assured of admission, except for intervening causes. It proposed that this agency be the Department of Justice. The President's Commission, reflecting opinion that the Department of Justice, as a litigating and prosecuting agency, was unsuitable for this administrative function, recommended that an independent agency be set up to have charge of all immigration (and naturalization) functions. The substitute omnibus bill previously mentioned includes this provision, which it is believed would promote fair and consistent interpretation of the security tests. The same rules would then be applied throughout the process. Indeed, this bill includes most of the existing items of "security tests," but provides safeguards against abuses—thus indicating a possible line of amendment.

In the hearings these points were elaborated by many representatives of church groups, nationality groups, labor organizations, etc., and by experts who had analyzed the Act and made some study of immigration problems. Many illustrations of the injustices resulting from the retained provisions of previous legislation were used. Much evidence also was offered as to the effect of these practices on our foreign relations. (See *Whom We Shall Welcome.*)

Many supporters of the law, however, are inclined to follow the lead of some in denouncing critics of the present screening process as "reds," "pinks," "liberals," and "demagogues who would auction the interest of America for alleged minority-bloc votes." In the record of hearings before the President's Commission most of the opposition to any change reflects the attitude that the added barriers are needed to keep out "a flood of subversives." Much oral testimony heard and many written statements filed from various parts of the country are practically identical in wording, the same five sentences being used from New York and Virginia to California, sometimes with an additional sentence. Whatever might be the effect on foreign relations was considered by those who mentioned it as unimportant compared with "security" against "subversive" infiltrations. It was even suggested that many "refugees" might have been delegated by Communist governments to emigrate to the United States. This seems to assume that subversive agents usually enter among regular immigrants and may be detected by the papers they carry or beliefs they profess, if the immigration law includes enough restrictions.

The questions arise whether the multitude and variety of reasons for refusing admission will effectively exclude applicants with subversive intent; whether the interpretation should be left to individual and perhaps fearful officials; whether many desirable immigrants will be excluded; and whether present practices promote internal and external ill will.

Resident Aliens

There are about 2½ million aliens resident in the United States. They are mainly immigrants who have been admitted for permanent residence but have not yet been naturalized; but there are also persons whose business or profession brings them here for extended stay but who do not wish to give up their foreign citizenship; persons accredited as representatives of foreign countries recognized by the United States or of a recognized international organization, including their families, employees, and attendants; and certain other special classes.

Except the group of foreign official representatives, every immigrant and nonimmigrant alien (eighteen years of age and over) admitted to the United States, after being registered and fingerprinted, must "at all times carry with him and have in his personal possession" his certificate or receipt showing registration. Otherwise he is subject to fine and imprisonment. He is required also to notify the Attorney General in writing of any change of address within ten days of such change. Failure to send such notice may be punished by deportation. (These provisions apply also to aliens admitted before such requirements were imposed.) If the alien is only a temporary resident, he must notify the Attorney General of his address at the expiration of each three-months' period, whether changed or not. Any employee of the Immigration Service has power without warrant, and at any time, "to interrogate any alien or person believed to be an alien as to his right to be or remain in the United States."

If it is discovered at any time that a resident alien was not eligible to entry for any reason at the time of entry—which may have been five, ten, or twenty or more years ago—he may be deported, even though he has lived here without serious transgression. If within five years of entry he has become a "public charge" by reason of illness or destitution, he is deportable unless he can prove that his condition did not result from causes existing prior to entry.

Under the old law an alien threatened with deportation could apply to the Attorney General to suspend deportation proceedings. The Attorney General could suspend such proceedings if in his opinion deportation would result in a "serious economic detriment" to members of his family. Under the present law the Attorney General may so act only in cases of "exceptional and extremely unusual hardship to the alien or his spouse, parents, or child," and then only if the alien "has been physically present in the United States for a continuous period of not less than seven years immediately preceding the date of such application, and proves that during all of such period he was and is a person of good moral character." If this alien had gone abroad for a few weeks during that period to visit relatives or dispose of some property, or even had spent a week with friends or relatives in Canada, the Attorney General apparently could do nothing for him. The letter of the law, however, is not always thus invoked.

It is risky otherwise also for an alien resident to leave the country, even if he has applied to the Attorney General for a re-entry permit, after stating his reasons for the trip. The permit merely identifies him. He must undergo examination again.

Those are cited as a few of the many examples of "tightening" the law as to

resident aliens. A good deal of research would be required to determine whether each new "tighter" provision of this sort was prompted by evidence of an actual case or cases where it would have served a useful purpose, or was based on expectation of cases that might arise, or both. Advocates of these provisions would doubtless argue that hardships imposed on a few or even many innocuous resident aliens and their families would be justified if the same procedure resulted in the deportation of some actual or potential "subversives." Yet deportation (i.e., banishment) is a severe penalty for minor errors or offenses. American residents in England, France, Canada, or any other "free" country are not deportable for comparatively trivial reasons.

Without judgment as to the necessity or appropriateness of any particular "tightened" restriction, a thoughtful reader of the many pages and thousands of words used to set forth the conditions under which alien residents may keep or lose their residence can hardly avoid serious misgivings. He would sense in the law a strong suspicion of alien residents in general and a determination to make their presence among us increasingly uncomfortable. One is reminded of the displays used in anti-American demonstrations by Communists in some foreign countries, bearing in one or another language the words, "Americans, go home!" On the other hand, liberal and humane interpretation and administration of these provisions of the Act, with opportunity for appeal, might reduce injustices to a minimum.

The questions arise: Are the provisions regarding resident aliens indications of American justice and goodwill? How would we regard similar provisions if we took residence for a time in some other "free" country? Is this a good way to make friends among nations whose friendship we need in combating the spread of Communist doctrine and Communist power, and to influence people of other nations to believe in our leadership in a crusade for human freedom?

Our Naturalized Citizens

Some of our alien residents, of course, have come here with no expectation of becoming American citizens. They may not wish to give up their ties with their native lands, to which they expect to return for their old age, or when their earnings permit, or when the business or professional assignment that brought them is completed. Likewise many of our citizens become residents of other countries for short or long periods without giving up their American citizenship. Alien status in a country is not, or should not be, nor has it been in the United States in earlier years, a bar to creative contributions.

But most of the aliens admitted to the United States as immigrants seek American citizenship sooner or later. About 7½ million of our present citizens are citizens by naturalization rather than by birth; still more are children of such citizens. An alien admitted for permanent residence may declare, at any time, his intention to become a citizen; but may not apply for his final citizenship papers until he has resided in the United States for five years, and in the state for at least six months. There are some exceptions to this requirement, as wives or husbands of citizens and veterans, who may apply on shorter residence. Other requirements are age of eighteen or over, ability to read and write English, "a knowledge and understanding of the fundamentals of the history and of the principles and form of government of the United States," and "a good moral character, attached to the principles of the Constitution and well disposed to the good order and happiness of the United States." Children born in the United States are citizens; also children born outside if the parents are citizens, or when they become citizens; and

naturalization of the parents, or a surviving parent, gives children under sixteen American citizenship. The recent legislation has added many details intended to deny citizenship to applicants suspected of Communist opinions, membership in a Communist organization, or association with Communists.

The Act of 1952, however, made also some significant improvements in the naturalization laws. (1) It abolished remaining racial disqualifications, so that residents of Oriental birth may now become citizens by the same process as those of European birth. (2) It confirmed the right of naturalization to conscientious objectors to armed service (on religious grounds). (3) It removed the need of a prior declaration of intention. (4) It exempted older persons from the literacy requirement. At the same time it requires personal investigation of every applicant's conduct for the preceding five years to determine "moral character," etc., and takes from the courts their one-time discretion in this regard, by elaborating in great detail the indications of immoral or unmoral character. And a long list of "subversive" indications is added as barriers to naturalization.

A very controversial feature of the Immigration and Naturalization Act, however, is its creation of a "second-class" citizenship. Citizenship once granted by the regular judicial process was formerly supposed to be full citizenship—the same as that of native-born citizens—unless it could be shown that it was obtained by fraud or other illegality. The Constitution makes no distinction between native and naturalized citizens as to their rights. Chief Justice Marshall's famous statement about the naturalized citizen may well be cited: that he becomes "a member of the society, possessing all the rights of a native citizen and standing, in the view of the Constitution, on the footing of a native." And he added: "The Constitution does not authorize Congress to enlarge or abridge those rights." But under the present Act many naturalized citizens live under continuous danger of denaturalization and deportation, even though their naturalization was obtained legally and without any misrepresentations.

It may be dangerous for a naturalized citizen to enter into any political activities or join any group or organization which may seek change—of labor or housing conditions, or local government, or any existing legislation. Communists also, unknown to the naturalized citizen, may be participating in the activity or be members of the group. The penalty may be loss of citizenship or deportation. It is reported that many naturalized citizens now are fearful of membership in any community organization or labor union. While under present administration of the law this fear may not be justified, their second-class status is incorporated in the law—usable unjustly whenever the antiforeign tide rises higher. Another offense leading to loss of citizenship is "contempt of Congress," which may be resentment of the insinuation, insults, or abusive tactics of a single inquisitor. If there is reason for punishing these offenses, should severer penalties be enforced on naturalized than on native-born citizens? If the number of cases of injustices to citizens having this second-class status has been comparatively small, they are nevertheless likely to be widely publicized, especially among the people of the nationality group involved and also abroad.

Do we foster our national unity, or gain prestige as a leader in the cause of human freedom, by creating a second-class citizenship—not recognized by our Constitution?

Our Alien Visitors

Normally people travel with a good deal of freedom, in peacetime, to and through other countries than their own—for sight-seeing, visits to relatives or

friends, participation in international conferences, lecture tours, etc. Before World War II few governments imposed serious obstacles to such travel. Then, following the War, Soviet Russia lowered the "Iron Curtain." Its satellites, including Communist China, followed this pattern. Some deviations from the pattern were permitted, but relatively few. In 1950 the (McCarran) Internal Security Act (now incorporated in the 1952 Immigration and Naturalization Act), while not lowering any "Iron Curtain," put up some embarrassing barriers here to normal unofficial international intercourse.

A "security clearance," substantially like what is required of immigrants, is now required of temporary visitors. Applicants for temporary visas include students, teachers, scholars, writers, lawyers, musicians, businessmen, engineers, and tourists. Some may wish merely to pass through the country; some may have been invited to address a religious or educational gathering or a meeting of scientists, or to meet a professional group for consultation, or to lecture at some university or college. Even if the admission of such a person is eventually found not dangerous to the national security, the applicant may be subjected to annoyances, embarrassment, or long delay. (Indeed the visa may not be issued until the occasion for the visit has passed.) Canada, Great Britain, France, Italy, and various other countries are therefore more suitable places for unofficial conferences where foreign participation is desired.

It may seem to many of us unwise to admit for public speaking or participation in unofficial international conferences any person who may have been or might be critical of any aspect of the "American way" of life. More than 100 years ago Charles Dickens was allowed to travel around the country freely, though he aroused some patriotic indignation by writing a book critical of some American customs. Nevertheless he came again, many years later, for a series of readings; the door was open to both immigrants and visitors. The eminent author, who had meanwhile written acceptable books critical also of English laws and customs, was given a good reception. (There is no record that his lodgings or lecture halls were even picketed). As to "ideologies," many were current in America, and their promotion was usually tolerated in the middle years of the 19th century. The New York *Tribune* invited Karl Marx, who had been expelled from Germany, to write a series of letters explaining his social and economic views; and these were published with apparently no enduring influence upon the development of a quite different system.

Our forefathers could be quite narrow-minded in some ways, but, like the men of Athens, were disposed to lend an ear to whoever had anything to say. So we have inherited a culture that naturally drew largely from foreign "isms" in its early development, and has continued of course to be influenced by other cultures. We find that this composite "American way," while not perfect and ever changing, has been and is productive of increasing welfare and opportunity for our people. The erection of barriers to intercourse, official and unofficial, with the rest of the world has never been a part of that way. Nor is it likely to promote goodwill and friendship with our neighbors.

A related cause of international unpleasantness is found in the provisions of this Act regarding alien crewmen. The major maritime countries of the world in number of seagoing merchant vessels, next to the United States, are Great Britain, Norway, Sweden, and France. Thousands of foreign merchant ships enter our ports every year. Many of their crewmen wish to land temporarily during the stay of their vessel or while awaiting assignment to another—just as crewmen on American ships like to go ashore in foreign ports. Under the present

Act, for the first time, alien crewmen cannot land "until they have been cross-examined concerning every detail of their past lives and political beliefs and association," as one Senator has put it. They must fulfill the same requirements as immigrants seeking permanent residence. It is easy to appreciate the feeling of the seamen—and their countrymen here and at home.

Summary

We summarize briefly the main points of attack on the Immigration and Naturalization Act of 1952, which have been discussed in the foregoing pages:

(1) It is so complex and unreadable, in some spots inconsistent, that the purpose of simplifying existing laws seems to have been forgotten, and no uniformity of interpretation can reasonably be expected.

(2) It re-enacts the rigid, discriminatory national-origins quota system, though flexibility in the quotas, or else different available bases of selection, would be more just, less offensive to other nations, and less divisive of our own people, and more likely to safeguard the quality of immigration. Individual qualifications are ignored in comparison with place of birth or ancestry.

(3) It sets up a tangled web of "security" provisions which, without more safeguards, are likely to be more effective in keeping out honest and desirable immigrants than in disclosing the actually or potentially subversive. If a consular official abroad refuses a visa on the basis of unfounded suspicion, the applicant has normally no recourse.

(4) It removes previous protections of reputable alien residents; so they are subject to deportation at any time, even after many years of residence, for even minor defects found in their original entry or for minor violations of various new requirements.

(5) It reduces our naturalized citizens to an inferior status, creating a second-class citizenship not recognized in our Constitution or our earlier practice. Their citizenship can be revoked for acts which involve no penalty for the native-born citizens.

(6) It raises barriers against temporary visitors—such as scientists, other scholars, technicians, artists, etc., invited here for conferences or consultations or other engagements, so that normal unofficial international intercourse is unduly restricted. Likewise it practically cuts off shore leave for foreign sailors on merchant ships.

Altogether such obstacles erected against even a limited immigration, such treatment of alien residents and visitors, and such discrimination against naturalized citizens—beyond the practice of other free nations—are held to be not only unneighborly but also inconsistent with a foreign policy that seeks friends and allies in defense of freedom.

On the other side, it is argued that any substitute for this Act would be likely to weaken our defenses against subversion from within, and any breach in it by amendment would invite other breaches until the doors would be opened wide to undesirable and unassimilable immigrants—also to Communist infiltration. It is not unfair to note that those who use this argument are generally unconcerned with humanitarian aspects of the problem or with the civil rights of alien residents and naturalized citizens.

An argument more realistic is that existing unemployment and housing

shortages make proper resettlement of large numbers of immigrants difficult, at least for the present, except in farming areas; but this argument is unrelated to the long-term policies reflected in the present law, and may not indicate an attitude toward needed amendments.

Of course there are also confirmed "nativist" groups who deplore the coming of so many "delayed Pilgrims" during the past 50 (or maybe 100) years and feel strongly that the "old stock" has been already too much diluted. They may be disturbed about alien penetration into our religious, social, or political life. In so far as the present law checks such penetration, they like it.

It is held also that it is for us alone, regardless of foreign opinion, to frame our legislation on such a vital matter as whom we shall admit as immigrants or alien residents or visitors, or what requirements we shall make of naturalized citizens. We do not attempt to interfere with other nations' legislation on these matters; so our decisions should not be determined by their possible impact outside.

It is true also that some who acknowledge the defects in the present Act, and are concerned about its effect on our national unity and our foreign policy, are fearful also of the emotional reaction to a conflict over amendment or repeal at this time. They recognize the spread of isolationism and authoritarianism, as politically powerful forces are eager to enforce conformity to their interpretations of "Americanism," regardless of civil rights. So, many who are aware of injustices and dangers in the Act, and want to remove them, would rather wait until this wave of manufactured emotion has subsided, and hesitate to take a definite stand.

Events, however, do not wait. It is therefore important that thoughtful people in our churches and outside inform themselves on the issues this Act presents to their reason and their conscience, and develop positive opinions about its relation to the problems of this troubled world—the neighborhood in which we must live with our neighbors as best as we can and in which we have responsibilities we cannot evade.

APPENDIX

Relevant Testimony

The Immigration and Nationality Act of 1952

Statement by Walter W. Van Kirk, before the President's Commission on Immigration and Naturalization, Washington, Oct. 28, 1952

The National Council of Churches urged Congress to enact an immigration and naturalization statute that would (a) make the quota system more flexible; (b) remove all discriminatory practices based upon consideration of color, creed, race, or sex; and (c) establish a system of fair hearings and appeals respecting the issuance of visas and deportation proceedings. [Statement of the General Board of the National Council, adopted March 21, 1952.]

The immigration and naturalization law of 1952, as approved by Congress, is at some points not compatible with the spirit and intent of the principles set forth by the National Council of Churches—principles which are dictated alike by consideration of Christian justice and love of country.

The National Council of Churches would like to see the quota system made more flexible, including the utilization of unfilled quotas. We reject the idea of unlimited immigration. The United States simply could not absorb the millions of persons who would come to our shores were the doors of entry thrown wide open. However, it is the view of the National Council of Churches that such restrictions as to numbers as may be required should be achieved without discriminations predicated upon national origin or racial heritage. Eligibility should be related to personal character, individual worth, and commitment to the ideals of freedom and democracy cherished by the American people.

Once a ceiling on numbers has been fixed, we believe serious consideration should be given to establishing a system of immigration priorities which would facilitate family reunion, provide skills needed in our country, and offer asylum to victims of totalitarian regimes.

Moreover, in this critical hour it is desirable that the United States strengthen and not weaken the bonds of friendship within and among the free peoples of the world. This end cannot be achieved so long as our immigration and naturalization laws discriminate against the nationals of certain countries whose friendship we seek and must have if the free world is to endure.

In certain respects the McCarran-Walter Act discriminates against Asiatics. Persons with Asian ancestry but not of Asiatic birth who seek entry to the United States are charged not to the country of birth but to some country of Asia. This appears to us to be an unwarranted restriction that cannot but be resented by Asiatics, the more so since they alone are thus dealt with.

The National Council of Churches believes that the immigration and naturalization law of 1952 does not establish a system of fair hearings and appeals. While recognizing the necessity of reasonable safeguards against the infiltration of subversive individuals, we believe such safeguards can be established without investing immigration officials and consular officials with the extraordinary powers accorded them under the McCarran-Walter Act. It is our belief that admission to and deportation from the United States are matters that should be subject to a fair and uniform review procedure.

The National Council of Churches does not believe that migration problems related to surplus populations should be dealt with in emergency legislation. We

believe the time is past to deal with those matters on a piecemeal and emergency basis. Nor does the National Council of Churches believe the United States or any other nation, acting separately, can solve the many problems related to displaced persons, refugees, and surplus populations. The migration and resettlement of these people is a world problem, and should be dealt with on a world basis. We would welcome a review of this entire matter by the United Nations, and, with the moral and material assistance of our own and other governments, the creation of such international machinery as would be competent to deal with this world issue in a world manner.

The President's Recommendations

President Eisenhower, in his State of the Union Message (February 2, 1953), stated that "existing legislation" regarding aliens and naturalized citizens "contains injustices," and requested that a statute be enacted "which will at one and the same time guard our legitimate national interest and be faithful to our basic ideas of freedom and fairness to all." Subsequently, in a letter to Senator Watkins (April 6) for transmission to the Senate Commission on the Judiciary, he suggested that a study of the operation of many of the administrative provisions of the Act of 1952 should be immediately undertaken," and cited these provisions for study (as reported in M. R. Konvitz, *Civil Rights in Immigration,* Cornell University, 1953):

"The provisions which make inadmissible any alien who, in the opinion of the consul, is likely to become a public charge at any time in the future. This places upon the consul the burden of forecasting events which cannot be predicted and, it is claimed, would permit abuse of discretionary judgment.

"The provisions which make ineligible for a visa any alien with respect to whom the consular officer knows or has reasonable ground to believe he probably would, after entry, engage in espionage, sabotage, or 'subversive' activities. It is asserted that this provision vests in the consul the authority, without restraint, to determine by his own mental processes the probability of future proscribed conduct, thus permitting a possible abuse of discretionary judgment.

"The provision which permits an immigration official to interrogate without warrant 'any alien or person believed to be an alien as to his right to be or to remain in the United States.' It is said that unless the word 'believed' is clarified so as specifically to require 'probable cause,' an abuse of this authority could possibly subject any citizen to improper interrogation.

"Provisions under which, it is asserted, naturalized citizens have only 'second class' citizenship because they, as distinguished from native-born citizens, can be expatriated because of residence abroad for certain periods of time, without reference to any other conduct on their part.

"New restrictions upon granting leave to seamen while ships are in United States ports.

"The provision which exempts from the criminal grounds of exclusion those aliens who have been convicted abroad of purely political offenses fails to define the term 'political.' It is asserted that it is therefore difficult for administrative officers to determine whether the 'criminal' offenses for which individuals have been convicted are indeed of a criminal, as distinguished from a political, nature.

"The provisions permitting aliens who were and are believers in nazism and fascism to enter the United States unless it can be affirmatively shown that they advocated the establishment of those ideologies in the United States.

"Deportation provisions that permit an alien to be deported at any time after

entry, irrespective of how long ago he was involved, after entry, in an activity or affiliation designated as 'subversive.' Such alien is now subject to deportation even if his prior affiliation was terminated many years ago and he has since conducted himself as a model American.

"The provision which authorizes the Attorney General to suspend deportation of certain deportable aliens if 'exceptional and extremely unusual hardship' is demonstrated. It is asserted, however, that these restrictive terms are not explained in the law, thus leaving the interpretation of the phrase open to administrative determination, subject to Congressional approval or 'veto.' It is argued that the law should more clearly state the standards upon which this discretionary relief may be granted by the Attorney General.

"The provisions which permit the continuation of up to a 50 per cent mortgage extending far into the future on the quotas of many countries. Under these provisions it is charged that Estonia has its quotas partially mortgaged until the year 2146; 2014 for Greece; Poland, the year 2000, and Turkey, 1964."

If these suggestions for Congressional study of the McCarran-Walter Act of 1952 have been seriously entertained, no amending legislation has emerged during the year that has elapsed—perhaps because both Congressional and public attention has been diverted to other issues. The Emergency Refugee Act of 1953 was only a temporary measure, involving no revision of the basic law.

The substitute bill introduced by a number of Democratic Senators and Representatives in the past session of the present Congress has been previously mentioned. It has reposed on the shelves of the Judiciary Committees of both Houses. Now, however, in the second session, a bill containing many amendments to the McCarran-Walter Act has been introduced in both Houses under Republican sponsorship (April 19, 1954). It follows generally the lines of President Eisenhower's recommendations.

As to the national-origins quota system, it would use the 1950 census rather than the 1920 census as a basis for quotas, remove certain provisions discriminating against Asiatic and colonial peoples, bar Fascists as well as Communists, and distribute unused quotas among nationalities with quotas of less than 7,000. (In the fiscal year 1953, over 57,000 quotas were unused.) As to other parts of the McCarran-Walter Act, it would remove certain provisions which create a "second-class citizenship" for naturalized Americans; establish a statute of limitations for aliens threatened with deportation; and set up a board of visa appeals in the State Department.

Whether or not amendments to the McCarran-Walter Act along either of these lines, or along lines where the Democratic and Republican bills serve a similar purpose, depends upon the expression of public opinion. Neither bill would command the united support of the party to which its sponsors belong; but some bipartisan compromise may eventually be worked out—if the people show sufficient concern.

The Refugee Act of 1953

This Act enacted at the first session of the present (83rd) Congress (Public Law 203), urged by the President as an emergency measure, authorized the admission of 209,000 refugees, expellees, and escapees from communism over a three-year period as nonquota immigrants. It specified a maximum of 55,000 of German ethnic origin and 35,000 of whatever ethnic origin formerly resident in Communist-dominated or Communist-occupied areas of Europe and now harbored in

West Germany, West Berlin, or Austria; 45,000 of Italian ethnic origin (including refugees from former Italian colonies) now in Italy or Trieste; 15,000 of Greek ethnic origin now in Greece; 15,000 of Dutch ethnic origin now in the Netherlands. Another allotment of 15,000 was for persons of Italian origin in Italy or Trieste who have near relatives in the United States. Smaller allotments to various groups made up the remaining 29,000. (A provision was added for 5,000 in adjustments of status).

Visas were to be granted only to those applicants who met the security requirements of the Immigration and Nationality Act of 1952 (after thorough investigation as to each applicant by American officials abroad), and also had individual sponsors in the United States of proven responsibility who would assure that the refugees would not become economic risks. Besides the information required from and about the refugee, the Administrators of the Act required each sponsor to fill out an elaborate form containing not only his assurances but also information as to his property, income, bank account, taxes paid, etc.

The following quotation from an editorial in the *Washington Post* (February 10, 1954), under the heading "Immigration Hoax," is an example of current comment on what has been supposed to be a temporary relaxation of our immigration policy:

> "In the six months that have passed since President Eisenhower signed the Refugee Relief Act of 1953, a grand total of exactly four individuals have been admitted to the United States under its terms....No wonder the Rev. Paul C. Empie, executive director of the National Lutheran Council, declared the other day that the relief act has turned out to be 'quite contrary to what we had hoped for.' The reaction is felt equally by the other religious and voluntary agencies working on refugee problems. They attribute the throttling of emergency immigration in part to needlessly rigorous security precautions involving an elaborate investigation by American officials abroad of each visa applicant—a hopeless task in the case of those who have fled from behind the Iron Curtain—and needlessly formidable guarantees that the refugees will not become economic risks in the United States—involving a requirement that an individual sponsor assume full responsibility for each immigrant....The best of laws can accomplish little when there is no will to make it work; when administrators are determined to use it for obstructionist purposes, it can serve no end save mischief."

Whatever may be the working of this emergency legislation, administered in the framework of the basic Act of 1952, the refugee problem will doubtless continue for some years. It requires international co-operation, whether through the United Nations or other international channels. Other nations have followed our lead in this regard when we have led—as when we were doing our part in 1950-52 under special legislation. It has become obvious, however, that only revision of our basic law, to make it flexible in accordance with changing conditions and needs, will permit effective exercise of our responsibility and bring about effective international co-operation.

Our Welcome to Foreign Visitors

From testimony by Vannevar Bush, president of the Carnegie Institution of Washington, October 29, 1952

"There has been a great deal of difficulty due to the fact that the temporary admission of scientists for conferences, for meetings, and the like has been exceedingly complicated and difficult under the administration of the law. I am

quite sure that this has given a bad impression throughout the world of our attitude in this country towards scientists generally; that many individuals, distinguished scientific people, invited to this country have felt that this country has treated them very badly. Even where there has been no exclusion—and there has been some exclusion exceedingly embarrassing to scientific people—the impression has been very bad indeed....We have surrounded the matter with so much difficulty that we have certainly appeared to the rest of the world to be intent on keeping people out, rather than intent on keeping the wrong people out while attracting the right ones....

"The language of Section 203 (a) (1) of the Act recognizes the principle of giving priority to qualified quota immigrants whose services are urgently needed in the United States because of high education, technical training, specialized experience, or exceptional ability.... But the proposed regulations [based on other provisions of the Act] require a time-consuming procedure for obtaining documents, including a clearance from the U. S. Employment Service, written statements from labor organizations, affidavits of persons having special knowledge about the alien scientist, clippings of advertisements for persons in the United States to perform the services which it is proposed the alien should render, copies of diplomas and school certificates, and so on."

The regulations may have been modified for such cases, or exceptions may have been arbitrarily made now and then, but the letter and spirit of the basic law discourage such concessions by immigration authorities. Other testimony in the hearings of the President's Commission cites many cases of refusal of visas to non-Communist visitors invited to participate in scientific conferences or to accept temporary appointments in universities and colleges; more cases of prolonged and embarrassing negotiations. A University of Chicago professor estimated at 200 the number he knew of whose entry had been prohibited, several hundred who had encountered serious difficulties. These cases involved provisions of the (McCarran) Internal Security Act of 1950 which were also incorporated in the Act of 1952.

President George N. Shuster of Hunter College, New York, had served on leave of absence as an official of the Department of State in Bavaria, when refugees were crowding into that area, and had much to do with consular officers there. He testified that "on the whole I think these people did everything they possibly could to circumvent the highly crippling legislation that had been put upon them. So I don't think our bureaucracy needs any reform. I think what is needed is a reform in the legislation by which that bureaucracy is necessarily governed."

The Wider Impact

The Immigration and Nationality (McCarran-Walter) Act of 1952 includes many provisions that reflect the hysteria of fear and suspicion that has been spreading through the United States in the postwar years. The spread of Communist imperialism, the "cold war," the Korean war, and the threat of a more terrible world war have created a confused and critical situation for the American people and other peoples who want peace and freedom.

In this situation the endeavors of our government during the past ten years to build up collective security, both through the United Nations and through other co-operation with friendly nations, have encountered not only external obstacles but also internal opposition and disunity. The antiforeign feeling stirred up among us by groups who play upon both isolationist and "jingo"

emotions has been reflected in both national and state legislation and in other governmental activities, besides private exploits also conflicting with over-all national purposes—especially with the aim of collective security.

It is perhaps worth while to explore further the subversive character of this movement, dividing our people and weakening our leadership among the nations. For it is the background of whatever defects seem noteworthy in the Mc-Carran-Walter Act.

Our Responsibility in Leadership

The closely-knit Communist group which now dominates a large part of Europe and Asia, ruling perhaps over one-third of the world's population, is seeking wider conquests—if not by war, by intimidation or infiltration. It has become obvious that the Communist rulers feel insecure as long as freedom prevails outside their "Iron Curtain" and free nations co-operate in defense of freedom. The Soviet strategy seems to be to subsidize disorder or even civil war in weak spots, to offer economic aid or economic advantages where either may be welcome, and to foster mutual distrust among nations outside its present domain. This strategy follows the old rule of "divide and conquer." On many fronts the free nations with democratic institutions, and indeed all peoples not yet brought under the Communist yoke, face a creeping aggression.

In this situation the United States, with its tradition of democratic freedom and its enormous economic power, bears a heavy burden or responsibility. We have had and used unusual opportunity to develop great resources in relative security. Under our free institutions, people of many national ancestries have worked together with their skills, initiative, and energy—as one composite people, in co-operation rather than conflict. We have been engaged in two world wars within the past half-century, and put forth a tremendous effort—but without suffering the devastation and destruction that racked other nations, both victors and vanquished. Now our strength has become the main reliance of a threatened free world. Our action or inaction, more than ever, affects the lives of our neighbors —the security and welfare really of the whole world community.

Such leadership we have not coveted. Perhaps there has never been a more reluctant world leader. But we have had to recognize that co-operation of the free nations offers the only assurance of security, and that a major responsibility of leadership is to bring about the widest possible voluntary co-operation. The trend of events has exposed the folly of those who have continued to use the slogan "America First" as meaning "America Alone." We see more clearly the inevitable tie between our national interest and our international obligations. If we falter in our policies and practices, the great heritage of a civilization built on a broadening base of human freedom may fall in ruins.

So we have developed great military resources for defense of the free world (which is also self-defense) against military aggression. We hope we can thus deter further military aggression without the manifest horrors of a third world war. We have done our part in building up the defenses of other nations. In Korea we checked a Soviet-inspired invasion as far as we could without wider involvement, but at great cost. In Indo-China we have furnished valuable aid toward checking a similar aggression.

But the free world and freedom-seeking peoples face not only the threat of military aggression. Communist imperialism has less costly but no less effective weapons, as has been mentioned. Our responsible leaders have tried earnestly to counteract this creeping aggression by strengthening the forces of peace and

freedom in the United Nations, by diplomacy aimed at collective security, by demonstrating our goodwill in various ways, and by continuous emphasis of the moral aspects of the freedom we seek to defend for all peoples. The American people of all religious faiths have expressed through their representative organizations their concern for the cause of democracy as against totalitarianism, for the achievement of collective security, and for the establishment of neighborly relations among the peoples of the world.

Freedom Begins at Home

Our effective leadership of the free and freedom-seeking peoples of the world, as a champion of freedom and democracy, requires us to practice at home what we aim at abroad. If we tolerate practices that smack of those we found intolerable in Nazi Germany and find equally detestable in countries under Communist rule, the sincerity of our championship of freedom and democracy is questioned.

It is of course a duty of our government to root out any espionage, or treasonable conspiracy, or other provable subversive activity. The seeds of Communist tares, however, have found less room for growth on our soil than almost anywhere else in the world. Whatever efforts have been made to subvert the minds of our people to support of a Communist revolution have had little effect. As the designs of the Soviet Union have been clarified since the end of World War II, most of the friends of our one-time ally have been disillusioned. Disclosures that "classified" information had been transmitted to Russian agents through carelessness or espionage have brought about more effective safeguards—though of course no nation has or can maintain a monopoly of scientific information or can plug all leaks of information about governmental policies or activities. We have government agencies whose regular duties include the detection and punishment of conspirators or traitors.

The efforts of our responsible leaders, however, to check the world-wide spread of communism have been weakened and diverted by divisive activities at home. Irresponsible, publicity-seeking politicians and over-zealous "patriots" have seized the opportunity for a great "crusade"—to stir up fears among millions of Americans that other millions of Americans have been condoning or actively engaging in "aid and comfort to the enemy." Did this or that public speaker or singer or artist or writer or teacher or clergyman ever in his life join an organization or attend a meeting in which a Communist or Communists participated? Did anybody ever see him reading a "left-wing" periodical? Did he ever venture to favor some local or national measure which the *Daily Worker* also favored? If summoned before a Congressional committee, did he refuse to disclose what he thought or whom he knew twenty years before? Had he ever voiced or written any unfavorable criticism of our present form of government—national, state, or local—or of the working of our economic system? If a public official, did he ever make a mistake—and, if so, why?

Certain committees of Congress and of some state legislatures developed techniques of accusation and defamation that have often seemed like modern adaptations of medieval inquisitions, or of Communist tactics, to their investigative procedure. Indeed the recollection or imagination of ex-Communists as informers has often been eagerly accepted without such questioning or cross-questioning as would be required in a court, and has been publicized to the injury of the reputation or livelihood of many persons against whom no charge of subversion or conspiracy could be legally or credibly maintained.

In many communities also eager volunteers have carried on the crusade for conformity—to their particular interpretation of Americanism. Even from the dark corners where anti-Semitist, anti-alien, anti-public-school, and other extremist groups have been active under various well-sounding names but with indifferent success, agitators emerged to bring their specialties into connection with what seemed to be a popular movement in order to acquire a new respectability. Many local newspapers have printed columns of defamation from such sources, and "committees," "councils," and otherwise-named enterprises once obscure have gained prestige and profit by participation with more respectable groups in "saving America." Some syndicated columnists and radio commentators also have found a fresh and profitable field in the crusade.

We have seen diligent searching of school or public library shelves for "leftist" (and therefore "subversive") sentences or paragraphs, or for works of authors suspected of social or economic or political unorthodoxy. Even Andersen's Fairy Tales and the story of Robin Hood have been interpreted as likely to give little children a subversive slant. The Bible appears to have escaped scrutiny —though some of the clergy may find it expedient to avoid use of certain chapters of both the Old and the New Testaments.

In this connection, the recent action of two state legislatures may appropriately be noted. The Georgia Legislature in 1953 made it a crime, punishable by fines up to $20,000 and imprisonment from one to twenty years, for a citizen "to commit, or advocate in any manner the commission of, action to overthrow or destroy or alter the government of the United States, of the State of Georgia, or of any of its political divisions." The sanctity of the political status quo in the state and its counties is thereby protected. One requirement of state employees is that they list all organizations to which they or their relatives now belong or to which they have belonged in the past.

The 1953 Alabama Legislature passed a law "to prohibit the use of certain textbooks and writings in public schools, institutions of higher learning, and trade schools." It provides that "no textbook or other written instructional material" (except newspapers and magazines) shall be approved for use if it "does not contain a statement by the publisher or author thereof indicating clearly and with particularity that the author of the book or other writing and the author of any book or writing cited therein as parallel or additional reading is or is not a known advocate of Communism or Marxian socialism" etc. The use of any book not so labeled "may be enjoined upon the application of any resident taxpayer." The state superintendent of education approves the law, intends to see that it is obeyed, and hopes other states will adopt similar laws. The University of Alabama has about half a million books in its library. A single book may contain hundreds of citations from authors living or dead. The super-patriots may now range freely from Plato and Amos and St. James to present-day writers. (See *Christian Century,* April 7, 1954.)

The McCarran-Walter Act

It was in this atmosphere of increasing suspicion—suspicions of aliens, of democracy, of freedom, of civil rights, of international co-operation—that the McCarran-Walter Act was framed and passed and turned over to its administrators. It would be unfair, however, to imply that all Senators and Representatives who voted for the bill shared the views of the isolationist crusaders. Probably most of them did not. No doubt also among the members of the Judiciary Committees who submitted the bill there were some supporters of it who recognized

its defects but believed these could be removed by subsquent amendment. In existing circumstances they would rather have this important codification of immigration and nationality laws—which contained some improvements, whatever the defects retained or added—than postpone action further in the midst of a critical political campaign. It was not strange, then, that the wider impact of the Act, and of the unfriendly attitude toward aliens that it seemed to reflect, did not receive adequate consideration.

But the McCarran-Walter Act has been coupled, in many parts of the free world, with the inquisitions, the drum-beating, and the outbursts of intolerance which have been for several years so conspicuous in the American scene. The good features of the Act have been obscured by its defects—some of which have been pointed out on the preceding pages. And the most ardent opponents of any modification of the Act seem to be the same "crusaders" who have been engaged nationally or locally in divisive activities. Thus they invite this identification of the Act with the anti-alien emotions that have been stirred up throughout the country. Our friends abroad, including both allies and "fence-sitters" in the "cold war," have developed doubts of the consistency and sincerity of our leadership in the cause for freedom, when our own traditional freedoms are being diluted at home.

Many of our people, however, who have not been concerned with or aware of the defects in the Act are now showing concern over provisions that they find violating our traditions of freedom and justice as well as impairing our vital interests in the present crisis. They have been impressed also by its interference with the operation of the Refugee Act of 1953, by President Eisenhower's emphasis of the need for amendment, and by the anxiety of responsible leaders of all religious faiths over the moral issues involved.

A Statement on Investigative Procedures in the Congress of the United States

Adopted by the General Board of the National Council of the Churches of Christ in the U.S.A., March 17, 1954.

Deeply concerned by certain trends in American public life, the National Council of Churches in March 1953, created a "Committee on the Maintenance of American Freedom" and instructed it to "watch developments that threaten the freedom of any of our people or their institutions, whether through denying the basic right of freedom of thought, through Communist infiltration, or wrong methods of meeting that infiltration."

I. One such threat has come from procedural abuses by Congressional Committees. Remedial measures are now being proposed, and we commend the President, the leaders of both major parties and the members of Congress who have spoken out and demanded reforms. If these reforms are to be adequate, they should provide protection from at least the following:
   1. The stigmatizing of individuals and organizations on the basis of unsupported accusations and casual associations.
   2. The forcing of citizens, under pretext of investigation of subversive activities, to testify concerning their personal economic and political beliefs.
   3. The functioning of Congressional Committees as legislative courts to determine the guilt or innocence of individuals.
   4. The denying of "witnesses" opportunity to bring out material favorable to their side of the case through questions by witnesses' own counsel and

opportunity to test the validity of accusations through cross-examination of accusers.

5. The permitting to a Committee member or counsel the reading into the record against a "witness" defamatory material and charges without requiring the accuser personally to confront the accused.
6. The usurping by Congressional Committees of powers not granted to Congress by the Constitution and their failing to concentrate on the primary task of collecting information for purposes of new legislation.
7. The scheduling of hearings, subpoenaing of witnesses and evaluating of their testimony by Chairmen of Committees without the concurrence of, or consultation with, their fellow Committee members.
8. The releasing from the files of a Congressional Committee of so called "information" consisting of unverified and unevaluated data in such a way that the Committee can be used to help spread and give credence to malicious gossip.

II. Another threat has come from competition among rival Congressional Committees, creating the impression that they seek publicity, personal aggrandizement and political advantage rather than basic facts. In order to concentrate energy on the legitimate and essential tasks of resisting the Communist threat, and in order to avoid wastage and duplication of effort and to minimize the risk of the exploitation of public interest and fear, we urge the establishment of a single Joint Congressional Committee for the investigation of subversive activity.

III. A more basic threat has been a growing tendency on the part of our people and their representatives in government to suppose that it is within the competence of the state to determine what is and what is not American. The American way is to preserve freedom by encouraging diversity within the unity of the nation and by trusting truth to prevail over error in open discussion. The American way is to rely upon individuals to develop and express individual opinions. The American way is to depend upon the educational institutions to seek the truth and teach it without fear. The American way is to look to the churches in the richness of their diversity to bring to the nation light and discipline from God to maintain a responsible freedom.

IV. Aggravating these threats to American freedom is the prevailing mood of restlessness and tension. This arises in part from the real menace of communism which our nation is resisting by strength. It arises in part from the lack of a sense of security within our people which no physical strength can produce. Spiritual security can be achieved only by strengthening the nation's faith in God. The responsibility for deepening this faith rests with the churches.